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Review of the efficiency of the administrative and financial functioning of the United Nations

Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Report of the Office of Internal Oversight Services on the audit of the functioning of the Headquarters Committee on Contracts

Note by the Secretary-General

1. Pursuant to General Assembly resolutions 48/218 B of 29 July 1994 and 54/244 of 23 December 1999, the Secretary-General has the honour to transmit, for the attention of the General Assembly, the attached report, conveyed to him by the Under-Secretary-General for Internal Oversight Services, on the audit of the functioning of the Headquarters Committee on Contracts.

2. The Secretary-General takes note of the findings in the report aimed at improving the functioning of the Headquarters Committee on Contracts and generally concurs with the recommendations of the Office of Internal Oversight Services (OIOS), noting that one of them is still under discussion between OIOS and the Department of Management.

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Report of the Office of Internal Oversight Services on the audit of the functioning of the Headquarters Committee on Contracts

Summary

The Office of Internal Oversight Services (OIOS) conducted an audit of the functioning of the Headquarters Committee on Contracts (HCC), which advises the Assistant Secretary-General for Central Support Services concerning proposed procurement actions over $200,000 and contracts involving income to the Organization. The main objectives of the audit were to assess: (a) whether the existing structure and procedures assured that the mandate of HCC was fulfilled effectively and efficiently; and (b) whether the activities of HCC added significant value to the procurement process.

The audit disclosed that HCC continued to have a profound impact on the Organization's procurement, although its functioning could still be improved. OIOS also noted that the Chairman of HCC reported administratively to the Office of Central Support Services (OCSS) which, inter alia, performed the United Nations procurement functions. An apparent conflict of interest therefore existed with respect to the review by HCC of procurement actions requisitioned by OCSS, although no evidence was found to indicate that the integrity of the HCC review process had been compromised.

During the period from January 2000 to August 2002, 1,498 procurement cases valued at approximately $3 billion were submitted to HCC for review and OIOS found that case submissions valued under $1 million totalled around 68 per cent in number but only about 11 per cent in value. In the opinion of OIOS, the HCC review function could be made more efficient if the current threshold for HCC review were increased from $200,000 to $500,000 or even $1 million.

HCC reviewed 90 cases valued at about $81 million (about 10 per cent of the total cases reviewed by it) on an ex post facto/partial ex post facto basis (i.e. after the actual procurement action had been completed). The audit disclosed, however, that most of the cases did not meet the Procurement Manual's definition of exigency. In the opinion of OIOS, ex post facto cases not strictly involving administrative delays should be referred to the Controller to determine the managers' accountability for non-compliance with financial rules.

The analysis by OIOS of HCC records also revealed that the members of HCC spent only two working days, not counting weekends and holidays, for the review of certain cases with significant monetary values. Although some of the cases involved valid exigencies or urgent operational requirements, HCC should ensure that adequate time is allowed for the cases to be reviewed. Further, about 14 per cent of the cases submitted showed that the requirement for submitting cases at least two full working days before a regularly scheduled HCC meeting was not followed.

The Procurement Manual does not clearly describe the provisions and criteria governing the tenure of members of HCC, the voting process or the "pre-clearance" procedure (established by HCC in 2000 to screen and approve presumably straightforward procurement cases before their discussion at a regularly scheduled meeting of the Committee).

OIOS made a number of recommendations on the above issues for action by the Under-Secretary-General for Management, the Assistant Secretary-General for Central Support Services and the Chairman of HCC. Management generally concurred with those recommendations; however, they did not agree with some findings, nor with the need to transfer the administrative authority of the secretariat of HCC from OCSS to the Office of the Under-Secretary-General of the Department of Management.

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I. Introduction

1. In 2001, the Office of Internal Oversight Services (OIOS) conducted an audit of the functioning of the Headquarters Committee on Contracts (HCC), which, according to the United Nations Procurement Manual and in application of United Nations financial rule 110.17 effective at the time,[1] has the primary function of verifying and rendering advice to the Assistant Secretary-General for Central Support Services as to whether proposed procurement actions in excess of $200,000 and contracts involving income in excess of $40,000 to the Organization are made in accordance with the United Nations Financial Regulations and Rules, procedures, administrative issuances and instructions. HCC also examines and provides advice regarding the financial implications of proposed procurement actions as a means of assuring that they are in the best interests of the United Nations and are practical to administer. The main objectives of the audit were to assess: (a) whether the existing structure and procedures of HCC assured that its mandate was fulfilled effectively and efficiently; and (b) whether the activities of HCC added significant value to the procurement process.

2. HCC is composed of four members, including the Chairman, who is appointed by the Assistant Secretary-General for Central Support Services in consultation with the Controller and the Legal Counsel. In addition to the Chairman, the members of HCC include staff members nominated by the Office of Programme Planning, Budget and Accounts, the Office of Legal Affairs and the Department for Economic and Social Affairs. Procurement cases to be reviewed by HCC are supposed to be submitted with a minimum of two working days prior to regularly scheduled meetings. For the regularly scheduled meetings, which normally take place weekly on Tuesdays at 2 p.m., section 10.03.01 of the Procurement Manual requires that the case submissions should be received by the secretariat of HCC by 1 p.m. on the preceding Thursday. Thus, for the regularly scheduled Tuesday meetings, the number of working days involved is normally three (i.e. from the Thursday 1 p.m. deadline to the Tuesday 2 p.m. meeting). After hearing and discussing each case, recommendations on awarding contracts are forwarded by the Chairman of HCC to the Assistant Secretary-General for Central Support Services for his approval.

3. The secretariat of HCC uses a Microsoft Access database to record case submissions and to generate internal management reports. The analysis of the database by OIOS and the records and documents pertaining to the period from January 2000 to June 2001 showed that during that period 907 procurement cases valued at approximately $2 billion were submitted for review by HCC. The need for lengthy discussions with management on the draft and final audit reports delayed submission by OIOS of the present report, which was originally planned for 2002. The audit results were therefore updated in March 2003 to include in the report data on HCC activities up to August 2002. OIOS has reviewed the statistics for July 2001 to August 2002 in the same manner as those for the period from January 2000 to June 2001. Recent statistics on the workload of HCC are shown in the table.

[1] Replaced by rule 105.13 (b), effective 1 January 2003

Table
Number of cases submitted for review by the Headquarters Committee on Contracts (January 2000-August 2002)

Year	*Total number of cases*	*Total value (millions of United States dollars)*
2000	583	1 303
2001	617	1 355
2002[a]	298	489
Total	**1 498**	**3 147**

[a] January-August 2002

4. The audit revealed that HCC continued to have a profound impact on the Organization's procurement, but that the HCC review process could still be improved. A draft of the present report has been reviewed by management and their comments, where appropriate, have been taken into account in preparing the final report. *A general comment of management was that the audit team should have attended an HCC meeting to observe first-hand its functioning and deliberations.* OIOS points out that it had previously observed HCC meetings on several occasions and is familiar with their conduct. The focus of the OIOS review was to assess the procedures of HCC as indicated in the minutes of each HCC meeting and other documentation. Those minutes did not reflect any changes in the proceedings or conduct of the meetings that would have warranted the auditors' attending them again.

II. The organizational placement of the Headquarters Committee on Contracts represents an apparent conflict of interest

5. In the current organization chart for OCSS, both the Chairman of HCC and its secretariat (which includes the current Chairman and Secretary) fall under the administrative authority of OCSS. Although OIOS did not find any evidence to indicate that the integrity of the current review function of HCC had been compromised, the relationship between the Chairman of HCC and OCSS represented an apparent conflict of interest situation whenever HCC reviewed cases proposed by OCSS. In that regard, OIOS notes that OCSS submitted the second largest number of cases (around 8 per cent) and had the second highest value (about $253 million) among all offices presenting cases for review by HCC for the period from January 2000 to August 2002.

6. The Chairman of HCC had advised that although the secretariat of the Committee was attached to OCSS, HCC itself was not, as it is an interdepartmental administrative body comprised of representatives from OCSS, the Office of Programme Planning, Budget and Accounts, the Office of Legal Affairs and the Department of Economic and Social Affairs. In the view of OIOS, the apparent conflict of interest situation could be corrected if the Under-Secretary-General for Management were to remove the chairmanship and secretariat of HCC from under

the administrative authority of OCSS and place it under the Office of the Under-Secretary-General for Management so that the need of HCC for independence from both the requisitioning and the procurement functions would be better safeguarded (recommendation 1).

7. *Management disagreed with the position of OIOS on this matter, stating again that HCC was an interdepartmental body that advised the Assistant Secretary-General for Central Support Services but did not come under his authority. The fact that one of the four members of HCC is an OCSS staff member does not, in management's view, give rise to an "apparent conflict of interest" situation. In that connection, management noted that the Chairman of HCC was not a programme manager and was not directly involved in the requisitioning and procuring of goods and services; neither was HCC, which is an interdepartmental body. Thus, the restructuring proposed by OIOS, which is intended "to better reflect the need of HCC for independence from both the requisitioning and the procurement function", is unnecessary since that "independence" already exists. Moreover, moving the secretariat of HCC to the Office of the Under-Secretary-General for Management would not alter the fact that the Chairman of HCC would remain a staff member of the Department of Management, which, through OCSS, has functional responsibility for procurement. Thus, the "apparent conflict of interest" situation found by OIOS would remain.*

8. *Also, in the view of management, the proposed change represents form over substance and is not warranted in view of the functional independence and composition of HCC and bearing in mind also the assessment by OIOS that, based on its review, there was no evidence that the integrity of HCC had been compromised. Management further stated that the Chairman and secretariat of HCC had other responsibilities besides those relating to HCC, the impact upon which had not been examined or considered by OIOS in making its recommendation for a structural change.*

9. OIOS takes note of management's comments on the issue but is still of the opinion that a fundamental conflict of interest exists in the relationship between the Chairman of HCC and OCSS because of the direct supervision exercised over the Chairman of HCC by the Assistant Secretary-General for Central Support Services, who is the main official responsible for the Organization's procurement and also for the requisitioning function of OCSS. With respect to the possible impact that a structural change for HCC would have on the other responsibilities of its Chairman and secretariat, OIOS wishes to point out that the independence of HCC is of paramount importance and should not be dependent upon the performance of other functions of the United Nations Secretariat. Furthermore, OIOS is of the view that the other major function of the Chairman and secretariat of HCC — that is, as Chairman and secretariat respectively of the Headquarters Property Survey Board — would not be affected by the suggested organizational change, as the Headquarters Property Survey Board's function is to render written advice to the Under-Secretary-General for Management in respect of loss, damage or other discrepancy regarding the property of the United Nations (financial rule 105.21).

III. The threshold for review by the Headquarters Committee on Contracts should be reconsidered

10. OIOS analysed the potential impact of raising the HCC review threshold. For the period audited, the HCC database indicated that cases valued up to $500,000 represented approximately 50 per cent in number but only about 5 per cent in value, while cases valued up to $1 million were about 68 per cent in number but only around 11 per cent in value. In the view of OIOS, the HCC review function could be made more efficient without sacrificing the Committee's effectiveness if the current threshold of procurement cases for HCC review were increased from $200,000 to possibly $500,000 or even $1 million (see recommendation 2). A similar statement was made by the group of procurement experts in the report of the Secretary-General of 9 February 1996 on the implementation of procurement reform in the United Nations Secretariat (A/C.5/50/13/Rev.1) as follows:

> "It is intended (...) that the Committee will review approximately the top 20 per cent of contracts by value, with emphasis placed on the quality of the decision-making, rather than the quantity."

11. *Management's position was that the current $200,000 threshold is worth examining and that, when it is, not only should the threshold levels of comparator organizations be examined, but also other factors should be taken into account, including the assessed risk associated with a higher threshold level, procurement and management capacity and recent performance.*

IV. Need to reassess the review period and the review of exceptional submissions

A. Minimum review period

12. OIOS found that insufficient review time was made available for HCC to review certain cases of high monetary value: without counting weekends and holidays, only two days, or the minimum review period, were sometimes spent for such cases. In the view of OIOS, when making a decision to support or not support a recommendation for a contract award, the members of HCC should be given reasonable assurance that all steps concerning the procurement exercise and leading to the Committee's decision were properly executed and documented. Enough time should also be provided to ensure that problems encountered during the early stages of the procurement process were satisfactorily resolved. OIOS recommended that management continue to assess the sufficiency of the review time afforded to Committee members and consider whether the current minimum review time required for the submission of cases by the Procurement Division should be extended (recommendations 6 and 7).

13. *Management stated that the time available for reviewing procurement cases agreed with the applicable provisions of the Procurement Manual and in no instance was a case reviewed unless the full membership was ready to consider it. Management further commented that it did not consider the current HCC review time, or the number of submissions days by the Procurement Division, to be insufficient, but it accepted recommendations 6 and 7 pursuant to its intention to*

examine the Committee's threshold level (recommendation 2). This will involve, inter alia, a comparison with other relevant organizations' thresholds. Management intends to take the opportunity of that exercise to examine the procedures and practices of the comparators, including their review days and submission timelines.

B. Non-regular or exceptional submissions

14. According to section 10.08, paragraphs 1 and 2, of the Procurement Manual, procurement cases should be submitted with a minimum of two working days prior to the HCC meeting. Exceptional cases that arise from emergency or exigent situations can be submitted less than two working days prior to the scheduled meeting of the Committee: such cases include those classified as "walk-in", "special meeting" or "telephonic" presentations. The Chief of the Procurement Division is supposed to ensure that the need to review those cases outside regularly scheduled HCC meetings is fully justified by the relevant requisitioning office. In considering such cases, the Chairman of HCC takes into account the reported urgent operational and contracting circumstances (e.g. chartering of aircraft to move contingent-owned equipment or troop contingents to and from peacekeeping theatres).

15. According to the analysis by OIOS of the cases submitted for review by HCC during the period from January 2000 to August 2002, exceptional submissions amounted to approximately $1 billion and represented about one third of the total number of cases submitted for that period. While acknowledging that the Chairman of HCC cannot guarantee the timely submission of all cases, OIOS found it questionable whether all the exceptional submissions were justified by valid immediate operational requirements. OIOS suggested that HCC closely monitor the occurrence of exceptional submissions and report periodically thereon to the Assistant Secretary-General for Central Support Services for follow-up action, if required, and remind requisitioning offices to adhere to existing guidelines concerning exceptional presentations (see recommendations 3 and 4).

16. *Management stated that the issue was not a matter of the Chairman of HCC considering the "timeliness" of the submissions, but rather deciding on whether calling for a special or telephonic meeting was warranted based on the information provided by the Procurement Division. Management also explained that a large number of cases were misrecorded as "walk-ins" because they did not meet the submission deadline. Based on that explanation, management recalculated the number of exceptional cases as 210.*

17. *Management disputed the statement by OIOS that it was "questionable" whether all "exceptional" submissions were justified, since each decision to consider an "exceptional" submission was taken on its own merit and it was considered to be in the Organization's interest to consider the case as an exigency based on the information available. Management also stated that requisitioning offices had been regularly provided with reminders to adhere to existing guidelines concerning exceptional presentations prior to the commencement of the audit exercise.*

18. OIOS takes note of management's clarification but wishes to point out that the aforementioned cases are still not deemed to be regular cases based on the criteria described in section 10.08, paragraph 2, of the Procurement Manual. Also, OIOS thinks that the number of exceptional cases recalculated by management (210) for

the period under review is still high, as it represents 14 per cent in number and 19 per cent in value ($600 million) out of all cases submitted for review by HCC during the period from January 2000 to August 2002.

C. Ex post facto cases

19. The analysis by OIOS also indicated that during the period audited, HCC reviewed 90 cases valued at approximately $81 million on an ex post facto or partial ex post facto basis. The OIOS audit disclosed that most of the cases did not meet the Procurement Manual's definition of exigency, which is "an exceptional compelling and emergent need, not resulting from poor planning or management or from concerns over the availability of funds, that will lead to serious damage, loss or injury to property or persons, if not addressed immediately". In the opinion of OIOS, ex post facto cases should be referred to the Controller to determine whether there should be any personal accountability for the non-compliance with the financial rules.

20. *Management stated that the dollar figure for ex post facto cases was somewhat misleading. For the most part, the cases classified as "ex post facto" had involved delays in the administrative processing of proposed procurement actions — most often between peacekeeping missions and Headquarters offices — and, unlike a situation that had developed in some peacekeeping missions in the mid-1990s, did not involve a significant disregard of the financial rules. In management's view, a distinction needed to be drawn between cases involving administrative delays in processing, on the one hand, and those where the financial rules have been ignored, on the other. In that connection, management also stated that there had been a substantial improvement since the mid-1990s with respect to the problem of ex post facto cases. During that period, approximately 51 per cent (in terms of dollar value) of cases reviewed by HCC were fully or partially ex post facto. For the year 2001, management stated that that figure was less than 3 per cent.*

21. OIOS notes that, in ex post facto cases, HCC could no longer render advice because a contractual arrangement (e.g. a contract or purchase order) had already been awarded before the advice of HCC was received. OIOS agrees with the Chairman of HCC that its recommendation to the Assistant Secretary-General for Central Support Services on referring ex post facto cases to the Controller should pertain to those not involving administrative delays, if such referral is warranted (see recommendation 5).

V. Other improvements in the Headquarters Committee on Contracts process

22. OIOS found that there was a need to establish detailed checklists to assist HCC in addressing possible risks in various areas of procurement, which could help in strengthening and documenting the review by HCC. It would also be useful to help assess the HCC members' training needs and to ensure that adequate resources existed to provide appropriate training to the members (see recommendation 8).

23. *Management agreed that it would be useful to establish checklists to facilitate the Committee members' reviews of procurement presentations, while indicating that, at the end of every meeting, a set of minutes was prepared that documented the procurement particulars and the views of the members on each of the cases reviewed. The purpose of the minutes was to document and provide a historical record of the Committee's deliberations on the case and to provide the Assistant Secretary-General for Central Support Services with the benefit of an informed understanding of the basis for the Committee's recommendations.*

24. *As far as training is concerned, management stated that training for the members of HCC had been carried out internally prior to the commencement of the audit. Management added that the members would continue to be informed and to be invited to participate in internally organized procurement-related training, subject to the agreement of their parent offices and the availability of funding.*

25. OIOS noted that the Procurement Manual described the composition and tenure of members of HCC, stating that each member could serve for a term not to exceed three years, but that the Manual did not fully describe the reappointment process and criteria for the tenure of members of the Committee. OIOS also found that the Manual did not explain its voting process. Management informed OIOS that it planned to clarify the rules governing the tenure of members of the Committee with respect to successive appointments. The Chairman of HCC also stated that the Committee's decisions were based on consensus reached by the members during the deliberations of the Committee.

26. OIOS found that the Procurement Manual did not describe the "pre-clearance" procedure used by HCC in reviewing selected cases. HCC had established the procedure in 2000 to "pre-clear" some agenda items that were proposed to Committee members by electronic mail (e-mail). Using that procedure, the Chairman of HCC can recommend case awards involving agenda items that, based on a review of the written presentations received, are unanimously considered to be straightforward, without formal discussion at a Committee meeting. Management explained that that procedure was only used in limited circumstances. OIOS had suggested that management take action to ensure that the above procedures were fully described in the Procurement Manual (see recommendations 9 and 10).

27. *Management commented that HCC had established the "pre-clearance" procedure in the year 2000 pursuant to its authority to establish its own procedures under ST/SGB/6/Add.1 and that action had been taken to include appropriate provisions in the Procurement Manual, which was currently being revised.*

VI. Recommendations

28. OIOS makes the following recommendations to strengthen the HCC review process:

Recommendation 1

29. The Under-Secretary-General for Management should review the OCSS organizational chart and consider removing the secretariat of HCC from under the administrative authority of OCSS and placing it under the Office of the Under-

Secretary-General to better safeguard the independence of the HCC function from both the requisitioning and the procurement processes (AN2001/62/2/001).[2]

30. *Management did not accept this recommendation. OIOS maintains its position and reiterates the recommendation because OIOS is still of the opinion that a fundamental conflict of interest exists in the relationship between the Chairman of HCC and OCSS because of the direct supervision of the Chairman of HCC exercised by the Assistant Secretary-General for Central Support Services, who is the main official responsible for the Organization's procurement and also for the requisitioning function of OCSS.*

Recommendation 2

31. The Assistant Secretary-General for Central Support Services should review the current threshold for HCC review of procurement cases with a view to possibly increasing it (AN2001/62/2/002).

32. *Management accepted the recommendation. Management believed, however, that the Under-Secretary-General for Management should decide the matter following an assessment study.*

Recommendation 3

33. The Chairman of HCC should continue to closely monitor the occurrence of "walk-in", "special meeting" and "telephonic" presentations and report periodically thereon to the Assistant Secretary-General for Central Support Services for follow-up action if required (AN2001/62/2/003).

34. *The Chairman of HCC accepted the recommendation.*

Recommendation 4

35. The Chairman of HCC should continue to remind the Procurement Division and requisitioning offices that non-regular presentations should be the exception, in accordance with United Nations procurement procedures. HCC should reject all submissions that give less than the required number of working days for review, unless they represent bona fide emergency or exigency situations (AN2001/62/2/004).

36. *The Chairman of HCC accepted the recommendation.*

Recommendation 5

37. With respect to ex post facto cases not involving administrative delays, the Assistant Secretary-General for Central Support Services should consider referring such cases to the Controller, where warranted (AN2001/62/2/005).

38. *Management accepted the recommendation.*

Recommendation 6

39. The Assistant Secretary-General for Central Support Services should consider whether the current minimum review time required for submission of cases to HCC by the Procurement Division should be extended (AN2001/62/2/006).

[2] The symbols in parentheses are internal codes used by OIOS to record recommendations.

40. *Management accepted the recommendation, which was expected to be implemented by 31 July 2003.*

Recommendation 7

41. HCC should continue to assess whether its review time is sufficient prior to accepting cases with a high monetary value or of a complex nature (AN2001/62/2/007).

42. *The Chairman of HCC accepted the recommendation.*

Recommendation 8

43. The Assistant Secretary-General for Central Support Services should establish detailed checklists addressing possible risks in the various areas of procurement and ensure that appropriate training is provided to the members of HCC, subject to agreements made with the members' parent offices and the availability of funding (AN2001/62/2/008).

44. *Management accepted the recommendation, which was expected to be implemented by 30 August 2003.*

Recommendation 9

45. The Chairman of HCC, in consultation with the Assistant Secretary-General for Central Support Services, the Controller and the Legal Counsel, should clarify the provisions in the Procurement Manual governing the tenure of members of the Committee and review the appointments of current Committee members to assure that those provisions are being complied with (AN2001/62/2/009).

46. *The Chairman of HCC accepted the recommendation, which was expected to be implemented by 30 June 2003.*

Recommendation 10

47. The Assistant Secretary-General for Central Support Services should ensure that the process and criteria for selecting the members of HCC, voting by the members and the pre-clearance procedure are fully described in the revised Procurement Manual (AN2001/62/2/010).

48. *Management accepted the recommendation and indicated that action had already been taken and implementation would take place upon issuance of the revised version of the Procurement Manual.*

(*Signed*) Dileep **Nair**
Under-Secretary-General for Internal Oversight Services